

All information below has been referenced from these resources:

- Ontario Ministry of Labor Website
- Occupational Health and Safety Act
- Employee Standards Act
- <http://www.labour.gov.on.ca>
- <http://www.ontario.ca>
- <http://www.ohrc.on.ca>
- Ontario Human Rights Code

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OCCUPATIONAL HEALTH AND SAFETY ACT (WORKPLACE HARRASSMENT)
AND EMPLOYMENT STANDARDS ACT

1.2 Worker

Worker means any of the following, but does not include an inmate of a correctional institution or like institution or facility who participates inside the institution or facility in a work project or rehabilitation program:

1. A person who performs work or supplies services for monetary compensation.

Whether or not we are employed as on the book (official on the record employees), the fact that we are performing work for monetary compensation makes us employees under the law and we are completely covered under the OH&S and Employee Standards Act and by Ontario Human Rights Commission.

Workplace harassment

Workplace harassment is defined in the Act as “**engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.**” The comments or conduct typically happen more than once. **They could occur over a relatively short period of time (for example, during the course of one day) or over a longer period of time (weeks, months or years).**

Workplace harassment can involve unwelcome words or actions that are known or should be known to be:

- **Offensive**
- **Embarrassing**
- **Humiliating**

- Demeaning

to a worker or group of workers.

It can also include behaviour that:

- Intimidates

- Isolates or even discriminates against the targeted individual(s).

Workplace harassment often involves **repeated words or actions, or a pattern of behaviors, against a worker or group of workers** in the workplace that are unwelcome.

This definition of workplace harassment is broad enough to include harassment prohibited under Ontario's Human Rights Code, as well as what is often called **“psychological harassment” or “personal harassment.”**

What are examples of bullying?

While bullying is a form of aggression, the actions can be both obvious and subtle. It is important to note that the following is not a checklist, nor does it mention all forms of bullying. This list is included as a way of showing some of the ways bullying may happen in a workplace. Also remember that bullying is usually considered to be a pattern of behaviour where one or more incidents will help show that bullying is taking place.

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Examples include:

- Spreading malicious rumours, gossip, or innuendo.

I can list several times Stuart has made up lies, rumours and gossip about people. Several examples include;

- Telling people I am faking sickness or “not as sick as I am making out”.**
- Telling me that Pablo was fired (not that it was rumoured but it was fact) because he was lazy and can barely do his job and he saved Pablos ass too many times**
- Telling me Ryan is lazy and constantly telling me that people are pretending to do work**
- He has also accused both me and Joseph of pretending to count stock and variety of other things and has both gossiped and insulted me and Joseph to each other about each other. He constantly gossips about others and does it in a malicious manner.**

- Intimidating a person.

Stuart constantly displays intimidating behaviour towards all members of staff. I personally have felt that he has done things to intimidate me like recounting my stock, doing cash checks after I have done them, speaking aggressively towards me and reminding me that he can report me for minor infractions.

He constantly reminds you of rules and procedures in order to catch you slip or to enforce power within the workplace. I have also seen him verbally attack and intimidate Ryan and many other members of staff especially Derek2.

On at least 5-10 different occasions I have seen Stuart come in to work drunk and/or sober and verbally and aggressively bully and intimidate Derek. Derek is just minding his own business and through out the altercation Derek is trying to dissolve the situation and is asking Stuart to stop attacking him verbally, but Stuart continues to attack Derek up to the point that Derek just seems like he can't deal with the altercation anymore and just takes Stuarts abuse to try and end it. Its not acceptable that there is a man employed here who comes in not only on shift, but after his shift to abuse, intimidate and bully staff.

- Undermining or deliberately impeding a person's work.

Once again this is done through rechecking peoples work, checking people's paperwork, commenting on how the task is being done and insulting our system of doing things. Particularly I can say this for myself and Joseph.

- Physically abusing or threatening abuse.

I personally haven't experienced this from Stuart and I would like to see him try. I have on the other hand heard that he has done this to staff on several occasions while intoxicated at work.

- Intruding on a person's privacy by pestering, spying or stalking.

I wouldn't exactly put this under here but while working with Stuart he establishes through various ways that he is surveilling and watching everything you do in order to report you, talk down to you, complain or gossip. I tested this by putting my count sheet in my pocket after completing store counts and he mentioned it by saying that he knew I was hiding the counts from him. This was within 2-3 days of when I started doing it. This shows me Stuart is watching what I am doing with my own paperwork and other duties within the store for no

reason as he has no authority over what I am doing and has no need to be checking on me.

- **Yelling or using profanity.**
- **Criticising a person persistently or constantly.**

I have not only experienced, but have personally seen Stuart belittle, yell at, talk down to, bully and verbally attack staff on a daily basis. I constantly see him aggressively (with no joking context or mannerisms) call Ryan fat, stupid, pathetic and lazy and be persistently attack him verbally. I know I am not innocent of this and I know I have a habit of teasing Ryan as well but lately I have acknowledged that even though I am doing it as a joke and Ryan knows it's a joke, he doesn't like it, especially all the time and I have been trying to personally tone it down because I felt maybe I was on the border of being a bully.

Stuart has worked with Ryan for 2 years and has never come to the self conclusion that the way he speaks to Ryan is abusive and belittling. Maybe Ryan doesn't show that he cares but he does, as does every other member of staff that Stuart is bullying, being abusive to and insulting. I have seen Stuart verbally attack Kyle for no reason at the counter after me and him had that disagreement. As soon as we got down to the counter he just started yelling, abusing and digging into Kyle for no reason other than to be a bully and project his anger onto someone else. I have seen him speak down to other staff including Joseph, Derek, Danny, Tayo.

Epecially Tayo. Stuart has a big problem with Tayo and CONSTANTLY talks about him and attacks him. (let me specify that everyone complains about each other here and there or people have there little fights, but the way Stuart does it is malicious and just straight up spiteful.) Stuart regularly calls Tayo an idiot and says he is stupid, lazy, dumb and talks down to him like he is a piece of shit. Tayo attempted to defend himself but Stuart uses past mistakes or character flaws within Tayo and attacks and attacks until Tayo just stands there and takes it because he doesn't want to enter into conflict and because the way Stuart speaks aggressively, Tayo probably feels that it could turn physical and can't be bothered with it so he just takes Stuarts abuse.

Dalton. Dalton left because of Stuart and refuses to work with him.

Danny quit and is constantly in fights with Stuart because of the way he speaks.

If you confront Stuart in any way and tell him that you dislike a certain behaviour or thing that he has said, he bizarrely and immediately accuses you of being the one that is behaving like that (or of doing what he is accused of) and becomes aggressive.

- Belittling a person's opinions.

If you disagree with Stuart you will be told you are in idiot and you are immature and will be treated with disrespect.

Other examples of things that Stuart has done that I have experienced or witnessed is:

- Stuart employs tactics of passive aggression and a type of poking method. What I mean by this is he attacks people verbally up to the point that they are going to explode and then changes his mood to act like he wasn't really even being passive aggressive. He does this habitually over the series of the day (only 2 hours I have to usually spend with him) so that you are constantly being put on edge and into a high-tension. An example of this would be Stuart will randomly start accusing you of being lazy and arrogant and start insulting you to the point that he sees you are about to explode with rage and then changes the subject and pretends like you are acting weird and immature around him for being physically upset. He then proceeds to do this multiple times over the day and tries to get you more and more angry. He does this as way to have emotional control over you and to shield his own insecurities which could only be described as narcissistic.
- Stuart "changes procedure" to suit his needs. He will verbally remind you that you did the counts faster than expected after every count and then question you on why it took you so quickly. He will then become actively annoyed and become hostile towards you. When he wants to leave the counter earlier than his designated time, he becomes hostile because you are doing the counts too slow and proceeds to tell you "Just hurry it up". It doesn't matter how you do the counts, it just depends on Stuarts mood and whether it suits his need to yell at you or his need to finish work.
- Regularly questions why you are doing things and proceeds to be condescending and rude when you make a mistake and will try to "yell at you" for it.
- Stuart makes up lies about what other people have said and what the office have said in order to try and control staff. He has told me on several occasions "Oh well the office or this person said this and this so you better be careful" and when I mention it them they are like "What?". He uses lies and manipulation not only to harass and control staff but in order to feel superior and belittle others. He even told me when I started he was Assistant Manager.

- For some reason Stuart will do something wrong and will blame you for doing what he did.

E.g. Stuart counted my counts and said they didn't match his. It was section V4 or something near the counter. We both recounted it with our own count sheets and Stuart had something like 45, the count (which we did together) was 47 and I had 49. So I got it incorrect by +2 and Stuart got it incorrect by -2. Stuart begins to abuse me and says I am lazy and I am lying and making up the counts and the only reason he got it wrong is because Ryan made a mistake and it wasn't his fault. I didn't even care that either one was wrong. I was like "Oh, I guess we both got it wrong". Instead he went on a weird and bizarre tirade how it's everybody else's fault but his. I could give you several more examples of when he has done this and exploded at other people and aggressively abused them and blamed them verbally for his own mistakes.

I could write another 7-8 pages of examples of things Stuart has done to myself and other members of staff, but I won't. It is unacceptable that we are forced to work in an environment with someone who is completely hostile, aggressive and harassing to all of us and who is literally making our lives at work hell. I hate coming into work every morning and I dread it because I know I am going to have to spend 2 hours of my day around this arrogant, narcissistic and hostile person who is going to spend the entire 2 hours finding ways to lord over me with bullying and intimidation to feed his ego.

I feel like if this is not resolved I will resort to physical violence in order to defend myself from his verbal tirades and I shouldn't have to do that. I am not the only other member of staff who feels this way about Stuart and as staff it feels disrespectful to us that you guys as management are not taking stronger and more immediate measures in dealing with this.

Two times I have spoken to the office about Stuart (Ilia, David and Ricco) and I was told things were going to be different. The reality is nothing is different. I appreciate that you attempted to take steps to stop Stuart from attacking us but Stuart is not listening. We cannot come to the office 12 times a day to complain about Stuart. We shouldn't have to. When Ricco spoke to Stuart after I threatened to quit, Stuart was told he was not to speak to me unless absolutely necessary and not to talk down to me or talk to me about work. He did this for about a day but due the awkwardness I attempted to build a bridge and get over it with him so we can work together but within days Stuart was back to the same way he was. After Ricco spoke to him, he went downstairs and screamed at Kyle and started attacking him verbally. He couldn't yell at me so he yells at the next weaker person in his mind.

Then we were all advised that speaking about work and criticizing each other will result in a fine or suspension. Stuart came down immediately after the meeting and said it was bullshit and began to become hostile and somewhat passive aggressive towards others and commenting on work done in order to show he was not going to stop.

Stuart has been given multiple warnings, has been such a problem that staff have left and has been told by the office however many times to fix his behaviour. He is not listening and he needs to be reprimanded correctly.

I personally have voiced my problems about Stuart with management twice and in the time I have been here, so have several others. Its not acceptable that one member of staff has 10's of complaints of harassment and he is allowed to keep his job or be in an environment where he can cause harm to the mental health of other staff. I understand this is not a typical company but no other company would tolerate a member bullying and harassing staff like this.

Under the Employment Standards Act, we as staff have a right to a harassment and bully free environment. If action is not taken immediately to remove Stuart from the environment so that all the staff can work in a safe and unhostile workplace, then I will be filing a complaint against Stuart to the Ontario Ministry of Labour regarding a breach in the ESA Act. Stuart has broken almost every harassment and workplace bullying law with almost every member of staff. He does not show any remorse for his actions and refuses to stop his behaviour and take responsibility.

The penalties for breaking the ESA are listed below.

Penalties

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(1) Every person who contravenes or fails to comply with,

- (a) a provision of this Act or the regulations;
- (b) an order or requirement of an inspector or a Director; or
- (c) an order of the Minister,

is guilty of an offence and on conviction is liable to a fine of not more than **\$100,000** or to imprisonment for a term of not more than twelve months, or to both. R.S.O. 1990, c. O.1, s. 66 (1); 2017, c. 34, Sched. 30, s. 4 (1).

(2) If a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed upon the corporation is **\$1,500,000** and not as provided therein. R.S.O. 1990, c. O.1, s. 66 (2); 2017, c. 34, Sched. 30, s. 4 (2).

(3) On a prosecution for a failure to comply with,

- (a) subsection 23 (1);
- (b) clause 25 (1) (b), (c) or (d); or
- (c) subsection 27 (1),

it shall be a defence for the accused to prove that every precaution reasonable in the circumstances was taken. R.S.O. 1990, c. O.1, s. 66 (3).

Accused liable for acts or neglect of managers, agents, etc.

(4) In a prosecution of an offence under any provision of this Act, any act or neglect on the part of any **manager, agent, representative, officer, director or supervisor** of the accused, whether a corporation or not, shall be the act or neglect of the accused. R.S.O. 1990, c. O.1, s. 66 (4).

ONTARIO HUMAN RIGHTS CODE

The Code prohibits actions that discriminate against people based on a protected ground in a protected social area.

This includes the workplace as it is one of the 5 key social areas, that being employment.

The Code protects people from **discrimination and harassment** because of past, present and perceived disabilities.

“Disability” covers a broad range and degree of conditions, some visible and some not visible. A disability may have been present from birth, caused by an accident, or developed over time.

There are **physical**, mental and learning disabilities, mental disorders, hearing or vision disabilities, epilepsy, mental health disabilities and addictions, **environmental sensitivities, and other conditions**.

The social model of disability articulated by the **Supreme Court of Canada** has been followed in many appellate court and HRTO decisions. **Disabilities may be temporary, sporadic or permanent.**

In one case, the HRTO stated, “I disagree with the assertion that in order to constitute a disability, the condition must have an aspect of permanence and persistence.” In that case, **the HRTO found that injuries resulting from a slip and fall that took almost three weeks to heal, and a miscarriage, both constituted disabilities within the meaning of the Code.**

This means that any form of temporary disability (including sickness and illness) falls under the Disability section of the OHRC and any harassment or discrimination caused falls under the penalties of the OHRC.

Stuart is telling multiple people at work that I am “pretending” to be sick and accusing me of “faking” it behind my back, because he perceives my sickness to be otherwise. The fact that I came into work on my birthday to collect my pay and use the staff toilet for 5 mins because I couldn’t make it home from dinner without crapping my pants, does not give Stuart any grounds to make an assessment on my physical health nor does it give him the right to gossip behind my back and make accusations about me towards others.

Under OHRC this is deemed as harassment on the grounds of temporary disability and is considered an infraction under the OHRC, making Stuart liable to be fined up to \$25,000 which is shown below.

I have spoken to the OHRC over the phone and they have confirmed that if I was to file a complaint, the tribunal could definitely impose a penalty as temporary sickness CONSTITUTES UNDER OHRC AS A DISABILITY. They also confirmed that what Stuart has done is considered harassment and I am able to file a claim against him.

I have spoken to at least 3 members of staff who have confirmed they will put in writing what Stuart has said to them regarding me being sick, and they have also confirmed they will allow me to submit it for evidence to the Ontario Human Rights Tribunal.

Penalty

46.2 (1) Every person who contravenes section 9 or subsection 31 (14), 31.1 (8) or 44 (13) or an order of the Tribunal is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

Section 9 (below) which it mentions above is speaking about the actual OHRC itself.

Infringement prohibited

9 No person shall infringe or do, directly or indirectly, anything that infringes a right under this Part. R.S.O. 1990, c. H.19, s. 9.

Acts of officers, etc.

46.3 (1) For the purposes of this Act, except subsection 2 (2), subsection 5 (2), section 7 and subsection 46.2 (1), any act or thing done or omitted to be done in the course of his or her employment by an officer, official, employee or agent of a corporation, trade union, trade or occupational association, unincorporated association or employers' organization shall be deemed to be an act or thing done or omitted to be done by the corporation, trade union, trade or occupational association, unincorporated association or employers' organization. 2006, c. 30, s. 8.

Reprisals

8 Every person has a right to claim and enforce his or her rights under this Act, to institute and participate in proceedings under this Act and to refuse to infringe a right of another person under this Act, without reprisal or threat of reprisal for so doing. R.S.O. 1990, c. H.19, s. 8

OTHER THINGS PISSY ABOUT:

Being called and harassed on the phone by the office

We shouldn't be called on our days off about beers in the fridges or any other crap. Once I leave those four walls of work **THE ONLY** time I ever wanted to be contacted is if I have not arrived to a shift, there is a discrepancy in the schedule which requires **IMMEDIATE** attention, sickness and anything that is **SUPER IMPORTANT**. I can't be getting 8 missed calls a week from the office over like 800 different things. It's not fair and it borders on harassment. I am not trying to be unfair or rude about this but this is something that every single member of staff is becoming **EXTREMELY** pissed about. We need our privacy and our time away from work.

10 sick days

Every person gets 10 harassment free days (which means no asking for a doctor's note) every calendar year in the state of Ontario. We don't ask for holiday pay, we don't ask for overtime, we don't ask for much. 10 sick days without having to provide a doctor's note should also be something that we are entitled to.

No Security at the sex shop

We need security at the sex shop. Ronnies been attacked, customers are constantly violent, aggressive, refusing to listen to rules and it's putting a lot of stress on all of the cashier staff by having to battle a wave of emotions every day to keep the customers at bay. A security guard can not only help us do our job better but it makes us feel like that there is some respect and care for our safety. The door next to the cash register is basically hanging on by a hinge, the only other form of protection is the broken counter panel that is broke (might be fixed now). Considering we work in a job that is basically luring perverted, homeless crackheads into our store, I think it's fair to ask that we have someone there who is trained and knows how to speak with people to deescalate problems and help to make everything run smoother. Even if it's just one guy that works 9pm-6am 5 days a week. It shows us that you guys give care and it's going to help us mentally be able to do our job a lot better.